

United States District Court
Central District of California
Western Division

LYVETTE GRIMES, *etc.*,

Plaintiff,

v.

RALPHS GROCERY COMPANY,

Defendant.

CV 23-09086 TJH (PDx)

Order

The Court has considered Plaintiff Lyvette Grimes's motion to remand [dkt. # 10] and Plaintiff Ralphs Grocery Company's ["Ralphs"] motion to dismiss [dkt. # 12], together with the moving and opposing papers.

On August 17, 2023, Grimes filed this putative class action consumer protection case against Ralphs. Grimes alleged that consumers were misled by the labeling of Ralphs' Private Selection Sliced Smoked Gouda Cheese because it failed to state that it contained smoke flavor.

On October 27, 2023, Ralphs removed pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d).

1 On November 27, 2023, Grimes filed her motion to remand, and noticed it for
 2 December 4, 2023 – just 8 days after it was filed. Local Rule 6-1 requires motions to
 3 be filed no less than 28 days before the noticed hearing or submission date. Further,
 4 Grimes failed to conduct a conference of counsel seven days prior to the filing of her
 5 motion, as required by Local Rule 7-3. Grimes’s counsel indicated that he attempted
 6 to schedule a conference on the same day that he filed the motion, and he offered to
 7 withdraw the motion if the parties can reach an agreement. However, neither of those
 8 satisfies the pre-filing requirements of Local Rule 7-3.

9 On December 4, 2023, Ralphs filed the instant motion to dismiss, pursuant to
 10 Fed. R. Civ. P. 12(b)(6) and 9(b).

11 On December 26, 2023, Grimes filed a first amended complaint, thereby mooted
 12 Ralphs’ motion to dismiss.

13 In her first amended complaint, Grimes alleged claims for: (1) Violation of
 14 California’s Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, *et seq.*
 15 [“UCL”]; (2) Violation of California’s False Advertising Law, Cal. Bus. & Prof. Code
 16 § 17500, *et seq.*; and (3) Violation of California’s Consumers Legal Remedies Act,
 17 Cal. Civ. Code § 1750, *et seq.*

18 Because only equitable remedies are available for UCL claims, for the Court to
 19 have equitable jurisdiction over Grimes’s UCL claim, here, she must have alleged that
 20 all available legal remedies are inadequate. *See Sonner v. Premier Nutrition Corp.*,
 21 971 F.3d 834, 844 (9th Cir. 2020). However, Grimes failed to allege that all available
 22 legal remedies are inadequate. Consequently, the Court lacks equitable jurisdiction
 23 over her UCL claim. *See Sonner.*

24
 25 Accordingly,

26
 27 **It is Ordered** that Plaintiff’s motion to remand be, and hereby is, ~~Stricken~~
 28 for failure to comply with Local Rules 6-1 and 7-3.

1 It is further Ordered that Defendant's motion to dismiss be, and hereby is,
2 Denied as moot.

3
4 It is further Ordered that Plaintiff's claim for violation of California's Unfair
5 Competition Law, Cal. Bus. & Prof. Code § 17200, *et seq.*, be hereby is, Dismissed,
6 without prejudice for lack of equitable jurisdiction.

7
8 Date: February 5, 2024



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10 Terry J. Hatter, Jr.
11 Senior United States District Judge